

Senate Bill No. 153

Passed the Senate August 21, 2008

Secretary of the Senate

Passed the Assembly August 13, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 62.3 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 153, Migden. Property taxation: change in ownership: exclusion.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests results in a change in ownership of the real property, and provides that certain transfers do not result in a change of ownership.

This bill, for a 10-year period beginning on January 1, 2009, would provide that a transfer of a cotenancy interest, as defined, in real property from one cotenant to the other that takes effect upon the death of the transferor cotenant does not constitute a change of ownership, as provided. This bill would require the transferor cotenant to sign an affidavit, as specified, under penalty of perjury.

By requiring the transferor cotenant to sign an affidavit under penalty of perjury, this bill would expand the scope of the existing crime of perjury, and thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or

classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 62.3 is added to the Revenue and Taxation Code, to read:

62.3. (a) Notwithstanding any other provision in this chapter, a change in ownership shall not include a transfer of a cotenancy interest in real property from one cotenant to the other that takes effect upon the death of the transferor cotenant where all of the following conditions apply:

(1) The transfer is solely by and between either of the following:

(A) Two joint tenants who together own 100 percent of the real property in joint tenancy.

(B) Two individuals who together own 100 percent of the real property as tenants in common.

(2) As a result of the death of the transferor cotenant, the deceased cotenant's tenancy in common or joint tenancy interest in the real property is transferred to the surviving cotenant, which results in the surviving cotenant holding a 100 percent ownership interest in the real property immediately after the transfer, thereby terminating the cotenancy.

(3) For the one-year period immediately preceding the transfer, the real property was coowned by the transferor and the transferee, and both cotenants have been the owners of record of that real property.

(4) The real property constituted the principal residence of both cotenants immediately preceding the transferor cotenant's death.

(5) The transferor and the transferee continuously resided at that residence for the one-year period immediately preceding the transfer.

(6) The transferee has signed, under penalty of perjury, an affidavit affirming that he or she continuously resided with the

transferor at the residence for the one-year period immediately preceding the transfer.

(7) The transfer occurs on or after January 1, 2009, and before January 1, 2019, by reason of the death of the transferor.

(b) A transfer of cotenancy interest in real property from one cotenant to the other shall take effect upon the death of the transferor cotenant under any of the following circumstances:

(1) Pursuant to the transferor cotenant's will or trust upon the death of the transferor cotenant.

(2) Through intestate succession from the transferor cotenant.

(3) By operation of law upon the death of the transferor cotenant.

(c) The exclusion provided by this section shall not apply to any transfer of real property interests for which a separate exclusion in this chapter applies.

(d) For purposes of this section, both of the following apply:

(1) "Cotenancy interest" means an interest in real property held only as tenants in common or joint tenants.

(2) "Principal residence" means a dwelling eligible for either the homeowners' exemption or the disabled veterans' exemption.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Approved _____, 2008

Governor